

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DOMINGO COLON MONTANEZ,	)	
Plaintiff,	)	
	)	
vs.	)	Civil Action No. 09-1547
	)	Judge Joy Flowers Conti
PA HEALTH CARE SERVICE STAFFS;	)	Magistrate Judge Maureen P. Kelly
CHIEF COUNSEL STAFF; POLICY	)	
MAKER STAFFS; JEFFREY A. BEARD;	)	
ROBERT TRETINIK; MICHAEL HERBIK;	)	
CHRISTOPHER MEYER; DARLA	)	
COWDEN; PAUL DONEGAN;	)	
ELLSWORTH; BONNIE RITTENHOUSE;	)	
MAIL ROOM PROPERTY ROOM	)	
STAFFS; MAIL ROOM STAFFS;	)	
ACCOUNTANT STAFFS; BUSINESS	)	
MANAGER; PROGRAM REVIEW	)	
COMMITTEE STAFFS (PRC),	)	
Defendants.	)	

**ORDER**

AND NOW, this 22nd day of February, 2012, after the Plaintiff, Domingo Colon Montanez, filed an action in the above-captioned case, and after Motions to Dismiss were filed by defendants (ECF. Nos. 58, 64), and after a Report and Recommendation was filed by the United States Magistrate Judge granting the parties until January 3, 2012, to file written objections thereto, and upon consideration of Plaintiff's "Appeal," ECF No. 125, which has been treated as objections to the Report and Recommendation, and finding that Plaintiff's objections do not address the substance of the Report and Recommendation, and upon independent review of the record, and upon consideration of the Magistrate Judge's Report and Recommendation, which is adopted as the opinion of this Court,

IT IS HEREBY ORDERED that Defendants' Motions to Dismiss are denied with respect to Plaintiff's Eighth Amendment and punitive damages claims.

IT IS FURTHER ORDERED that the Motions to Dismiss are granted with respect to Plaintiff's Fourth, Fifth and Fourteenth Amendment claims, as well as his claims pursuant to 42 U.S.C. §§ 1985 and 1986 and 18 U.S.C. §241 and 242.

IT IS FURTHER ORDERED that Plaintiff's claims against DOC Defendants, in their official capacities, are dismissed as barred by the sovereign immunity provisions of the Eleventh Amendment.

IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, if the parties desire to appeal from this Order they must do so within thirty (30) days by filing a notice of appeal as provided in Rule 3, Fed. R. App. P.

/s/ Joy Flowers Conti  
JOY FLOWERS CONTI  
United States District Judge

cc: Honorable Maureen P. Kelly  
United States Magistrate Judge

Domingo Colon Montanez  
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All Counsel of Record by electronic filing